



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: **AUG 26 2008**

DIANA M. MURRAY
Phone: (212) 788-1278
Fax: (212) 791-9714
DMURRAY@LAW.NYC.GOV

August 20, 2008

BY FAX (212) 805-6304

The Hon. Paul A. Crotty
U. S. District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Brahm Prasad and Mumbai, Inc. v. City of New York, et al, 08 CV 3818 (PAC)

Dear Judge Crotty:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, counsel for defendant the City of New York (the "City") in the above-referenced action brought by plaintiffs Brahm Prasad and Mumbai, Inc. pursuant to 42 U.S.C. §§ 1981, 1983 and 1985. I write to request an additional 60 days, from August 29, 2008 to October 28, 2008, to file the City's motion to dismiss and a corresponding extension of the October 20, 2008 date for the reply to December 19, 2008. Counsel for plaintiffs has consented to this extension with the understanding that the time to respond to the motion will be similarly enlarged and, thus, extended to November 28, 2008. Co-defendant Michael Weinberg also consents to the additional time for the motion as well as a corresponding postponement of the November 5, 2008 conference to any day during the week of January 5th to 9th of 2009. Counsel for plaintiff has not responded to our proposal regarding the adjournment of the November 5th conference. No prior request to amend the motion schedule has been made.

The additional time for the City's motion is necessary because the Amended Complaint, served on August 4, 2008, substantially differs from the original Complaint. It also adds, among the six newly named defendants, three members of the New York City Police Department, Dennis DeQuattro, Thomas Lauterborn and Bernadette Enchautequi. I note that,

MEMO ENDORSED

MEMO ENDORSED

according to the Court's docket sheet, these officers have not been served with process.¹ However, the City needs time to confirm the status of the newly named City employees, and once these officers are served, to conduct an inquiry to determine whether it can represent the individually-named defendants, pursuant to Section 50-k of the New York General Municipal Law. See Mercurio v. City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985)) (decision as to whether to represent individual defendants is made by the Corporation Counsel as set forth in state law). These officers must then decide whether they wish to be represented by the Corporation Counsel, see Dunton v. County of Suffolk, 729 F.2d 903 (2d Cir. 1984). Only then can this office interview these defendants in connection with the defense of this action. The additional time to file the motion should avoid the possibility of further delay as a result of confusion as to who the parties are and their representation.

Thank you for your consideration of this request.

Respectfully submitted,

Diana M. Murray
Diana M. Murray (DM 5435)

cc: Ambrose Wotorson, Esq. by Fax (718) 797-4863
Michael Weinberger, by Fax (212) 736-2604

s And
Application ¹ GRANTED/ The conference is adjourned to
1/8/09 at 3:00pm in Courtroom 20C

SO ORDERED: 'AUG 26 2008
Paul A. Crotty
HON. PAUL A. CROTTY
UNITED STATES DISTRICT JUDGE

¹ The other three newly named defendants also have not been served according to the Court's docket sheet.

MICHAEL WEINBERGER, Esq.
236 WEST TWENTY SIXTH STREET
SUITE 303 NEW YORK, NEW YORK 10001
Tel. (212) 736-2624 Fax (212) 736-2604

By Fax
Honorable Judge Paul A. Crotty
United States District Court
Southern District of New York

August 20, 2008

Re: Prasad v. City of NY
08 Cv. 3818

Dear Honorable Judge Crotty:

I am a defendant in the above captioned civil rights case brought by the plaintiff nightclub and its owner.

I join in the request of the co-defendant City of New York for different reasons.

The Amended Complaint has now added the president of my co-op, Beth Galton, as a defendant, as well as two other shareholder-tenants, Fred Phelps and Ronald Holmes.

As a result, I have been advised that the board of the co-op has decided that the co-op corporation should defend all the shareholder-defendants and ask the building's insurers if plaintiffs' claims come under any of the building's policies.

I have also been advised that the three new defendants will want to join in the motion by the City of New York to dismiss the case.

To avoid multiple motions, to give the co-op corporation time to secure counsel, and to coordinate the motion papers for all the shareholder-tenants, it is respectfully requested that the City's request, which I join in and which I have been advised plaintiffs' counsel consents to, please be granted.

Thank you very much for considering this request.

With Respect,



Michael Weinberger (9923)

cc: all counsel